

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GREGORY W. CHAPMAN,

Petitioner,

v.

JEFFREY UTTECHT,

Respondent.

NO. C10-5418 RJB/KLS

ORDER GRANTING MOTIONS TO
LIFT STAY AND TO AMEND
HABEAS PETITION

Before the Court are Petitioner's Motion to Lift Stay (ECF No. 21) and Motion to Amend Habeas Petition (ECF No. 22). Petitioner has submitted his proposed amended petition. ECF No. 22-1. Respondent does not oppose either motion.

DISCUSSION

Mr. Chapman filed a habeas corpus petition in 2010. ECF No. 5. After filing the petition, Mr. Chapman moved to stay the federal petition pending the resolution of pending state court proceedings. ECF No. 12. The Court granted the motion. ECF No. 17. Having completed his state court proceedings, Mr. Chapman now seeks to lift the stay. He also moves to amend his habeas petition. ECF Nos. 21 and 22.

Respondent confirms that a review of the state court dockets shows the state court proceedings have concluded. ECF No. 24, Exhibit A, Dockets for State v. Chapman, Court of Appeals Cause No. 40708-6-II and Supreme Court Cause No. 87580-4; Exhibit B, Dockets for In re Chapman, Court of Appeals Cause No. 43184-0-II, and Supreme Court Cause No. 87579-

1 1. Respondent agrees that it is proper for the Court to lift the stay of the federal petition. ECF
2 No. 23.

3 The decision to grant a motion to amend is within the discretion of the district court,
4 and leave to amend is generally freely given. *See Foman v. Davis*, 371 U.S. 178, 182 (1962);
5 *Ruffolo v. Oppenheimer & Co.*, 987 F.2d 129, 131 (2nd Cir. 1993); *Smith v. Finance Center*,
6 555 F.2d 234 (9th Cir. 1977). Respondent does not oppose the motion to file the proposed
7 amended petition. ECF No. 23.

8 Accordingly, it is **ORDERED**:

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10 (1) Petitioner's motion to lift stay (ECF No. 21) and motion to amend (ECF No. 22)
11 are **GRANTED**. The **stay is lifted** and the amended petition (ECF No. 22-1) shall be filed.

12 (2) Respondent shall file his response to the amended petition within forty-five (45)
13 days of the date of this Order.

14 (3) The Clerk shall send a copy of this Order to Petitioner and counsel for
15 Respondent.

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17 **DATED** this 29th day of January, 2013.

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20 Karen L. Strombom
21 United States Magistrate Judge
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